

9560.0665 NOTICE AND APPEAL PROCEDURES.

Subpart 1. **Request for foster care payments.** If a relative who is caring for a child contacts the county and requests foster care services or payments, the county must give the relative a written notice explaining:

A. that if the relative believes the child in the relative's care needs child protective services, the relative may contact the county to make a child protection report, how the contact can be made, and that the county will determine if child protective services are required and, if so, what those services shall be; and

B. that if the relative believes the county has placed the child in the relative's home pursuant to a court order or a voluntary placement agreement and the relative is not receiving foster care payments on the child's behalf, the relative may request payments. The county must enclose a "Request for Foster Care Payment Based on Placement" form for that purpose. The form must include a statement that the county will approve or deny the request within 30 days.

Subp. 2. **Response to request for foster care payments.** Within 30 days of receiving a request for foster care payments on the form provided under subpart 1, item B, the county must evaluate the request and provide a written notice to the relative. The notice must include:

A. a statement of the county's decision of approval or denial and an explanation for the decision;

B. a statement of the legal authority for the decision;

C. a statement that the relative has a right to a fair hearing review by the department;

D. the procedure for seeking review;

E. a statement describing the scope of review; and

F. a name and telephone number of a contact person at the county.

Subp. 3. **Review of claims of erroneous benefits.** Before or at the time of mailing the first foster care payment to a foster care provider, the county must give the foster care provider a written notice that includes:

A. a statement of and explanation for the starting date of the payments;

B. the amount of room and board;

C. the amount of any difficulty-of-care payment, if any, and an explanation of the manner in which the difficulty-of-care payment was calculated;

D. an explanation of any offset for public assistance paid;

- E. a statement of legal authority;
- F. a statement that the foster care provider has a right to a fair hearing review by the department;
- G. a statement describing the scope of review; and
- H. a name and telephone number of a contact person at the county.

Subp. 4. **Notice of initial assessment of difficulty of care.** As soon as reasonably practicable following the initiation of foster care placement of a child, the county must perform the difficulty-of-care (DOC) assessment required under part 9560.0653. Upon completion of the assessment, the county must give the child's foster care provider a written notice that includes:

- A. a statement of the DOC rating assigned by the county and the dollar value of the rating assigned;
- B. the method of assessment; this requirement may be satisfied by giving the foster care provider a copy of the DOC assessment instrument completed for the child by the county;
- C. a statement of the legal authority for the rating;
- D. a statement of the circumstances under which the agency must reassess a child as required by part 9560.0650, subpart 6;
- E. the procedure for seeking a reassessment; and
- F. a statement that, following reassessment, a foster care provider has a right to a fair hearing review of the reassessment by the department.

Subp. 5. **Review of reassessment of difficulty-of-care (DOC) rating.** Upon reassessment of a child's difficulty-of-care (DOC) rating, the county must give written notice to the foster care provider. The notice must include:

- A. the prior DOC rating;
- B. the new DOC rating;
- C. the effective date of the rating; this date may precede the request for reassessment when supported by evidence;
- D. the reason for the new rating, a copy of the completed DOC assessment instrument will be sufficient;
- E. the reason for the effective date;
- F. a statement of the legal authority for the assessment;

G. a statement that the foster care provider has the right to a fair hearing review by the department;

H. the procedure for seeking review;

I. a statement describing the scope of review; and

J. a statement that a foster care provider who requests review of the proposed change in the DOC rating within ten days of the date of the notice may also request that foster care payments continue at the provider's current level pending fair hearing review, but if the county's proposed action is sustained upon review, the agency may recover any overpayment paid.

Subp. 6. **Notice and review of reduction of days covered.** When the county reduces foster care payments or provides foster care payments for fewer days than the foster care provider requested, the county must provide a written notice to the provider. The notice must include:

A. a statement of the reduction in payment or of the number of days for which a check is being issued;

B. an explanation of the reason for the reduction or the number of days;

C. a statement of the legal authority for the decision;

D. a statement that the foster care provider has a right to a fair hearing review by the department;

E. the procedure for seeking review;

F. a statement describing the scope of review;

G. in the case of reduction in payment, a statement that a foster care provider who requests review of the proposed reduction in payment within ten days of the notice may request that foster care payments continue at the current level pending fair hearing review, but if the county's proposed action is sustained upon review, the agency may recover any overpayments; and

H. a name and telephone number of a contact person at the county.

Subp. 7. **Notice of termination.** When the county terminates foster care payments to a foster care provider, the county must send written notice to the foster care provider. The notice must be provided with the final voucher the county sends to the foster care provider if possible, but in all cases, at least ten days before the first month in which no payment will be made. The written notice must include:

A. the date after which foster care payments will not be made;

B. the reason the county will terminate payments, and the event on which the county bases its determination that the placement ended;

C. a statement of the legal authority for the decision;

D. a statement that the foster care provider has a right to a fair hearing review by the department;

E. the procedures for seeking review;

F. a statement describing the scope of the review;

G. a statement that:

(1) a foster care provider who requests a hearing within ten days of the date of the notice may request that the foster care payments on the child's behalf continue pending fair hearing review if the request indicates in writing that the child remains in the foster care provider's care;

(2) payments will continue only so long as the child remains in the foster care provider's care; and

(3) if the county's action to terminate the benefits is sustained upon review, the agency may recover from the foster care provider any amounts paid pending review; and

H. a name and telephone number of a contact person at the county.

Subp. 8. **Requesting a hearing.** After receiving notice under subparts 2 to 7, foster care providers or relative custodians who want a fair hearing review of a decision by the county must submit a written request for a hearing to the department within 30 days of receiving the notice, or within 90 days of receiving the notice if good cause can be shown why the request was not made within 30 days. Foster care providers may also seek fair hearing review of a request for foster care payments or reassessment of DOC if they do not receive written notice of the county's decision on their request within a reasonable time.

Subp. 9. **Scope of review.** The scope of hearings involving claims to foster care payments shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement, and, if so, the correct amount of foster care payment to be made on the child's behalf. The hearing shall not include review of the propriety of the county's child protection determination or child placement decision.

Statutory Authority: *MS s 257.071; 257.072; 260C.212; 260C.215*

History: *20 SR 2778; L 1999 c 139 art 4 s 2*

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